

HOUSE BILL No. 5302

September 2, 2009, Introduced by Reps. Opsommer, Meltzer, Meekhof, Agema, Mayes, LeBlanc, Hansen, Neumann, Calley, Wayne Schmidt, Spade, Melton, Rick Jones, McDowell, Lahti, Walsh, Lori, Polidori, Booher, Bolger and Lund and referred to the Committee on Tourism, Outdoor Recreation and Natural Resources.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license or other authorization; to provide for the forfeiture of firearms under certain circumstances; to provide for penalties and remedies; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; to prohibit certain conduct against individuals who apply for or receive a license to carry a concealed pistol; to make appropriations; to prescribe certain conditions for the appropriations; and to repeal all acts and parts of acts inconsistent with this act,"

(MCL 28.421 to 28.435) by amending the title, as amended by 2000 PA 381, and by adding sections 1b and 36.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and license the selling, purchasing, possessing, ~~and carrying,~~ **TRANSPORTING, AND STORING** of certain

1 firearms, **AMMUNITION**, and gas ejecting devices; to prohibit the
2 buying, selling, or carrying of certain firearms and gas ejecting
3 devices without a license or other authorization; to provide for
4 the forfeiture of firearms under certain circumstances; to provide
5 for penalties and remedies; to provide immunity from civil
6 liability under certain circumstances; to prescribe the powers and
7 duties of certain state and local agencies **AND BUSINESS ENTITIES**
8 **AND EMPLOYERS**; to prohibit certain conduct against individuals who
9 apply for or receive a license to carry a concealed pistol; to make
10 appropriations; to prescribe certain conditions for the
11 appropriations; and to repeal all acts and parts of acts
12 inconsistent with this act.

13 **SEC. 1B. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE**
14 **"MICHIGAN FIREARMS ACT".**

15 **SEC. 36. (1) A PERSON WHO LAWFULLY POSSESSES A FIREARM OR**
16 **AMMUNITION MAY TRANSPORT THAT FIREARM OR AMMUNITION IN A PRIVATELY**
17 **OWNED MOTOR VEHICLE OR STORE THAT FIREARM OR AMMUNITION IN A PARKED**
18 **AND LOCKED PRIVATELY OWNED MOTOR VEHICLE THAT IS PRESENT IN A**
19 **BUSINESS'S, COMMERCIAL ENTERPRISE'S, EMPLOYER'S, OR STATE SERVICE**
20 **AGENCY'S PARKING LOT, PARKING GARAGE, OR OTHER AREA DESIGNATED OR**
21 **OTHERWISE USED FOR PARKING VEHICLES IF THE FIREARM IS KEPT OUT OF**
22 **PLAIN VIEW AND IN A MANNER DESCRIBED IN CHAPTER XXXVII OF THE**
23 **MICHIGAN PENAL CODE, 1931 PA 328, MCL 750.222 TO 750.239A, OR**
24 **OTHERWISE ALLOWED BY LAW.**

25 **(2) EXCEPT AS PROVIDED IN SUBSECTION (3), A BUSINESS,**
26 **COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE AGENCY SHALL NOT**
27 **PROHIBIT A PERSON WHO LAWFULLY POSSESSES A FIREARM FROM**

1 TRANSPORTING OR STORING THE FIREARM OR AMMUNITION IN A LOCKED AND
2 PRIVATELY OWNED MOTOR VEHICLE THAT IS PARKED IN A PARKING LOT,
3 PARKING GARAGE, OR OTHER AREA DESIGNATED FOR PARKING VEHICLES.

4 (3) A BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE
5 SERVICE AGENCY MAY ADOPT A POLICY THAT REQUIRES A FIREARM AND
6 AMMUNITION STORED AS DESCRIBED IN THIS SECTION TO BE STORED OUT OF
7 PLAIN VIEW. NOTHING IN THIS SECTION CREATES A NEW DUTY ON THE PART
8 OF ANY BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE
9 AGENCY BEYOND THE DUTY SPECIFIED IN THIS SECTION.

10 (4) EXCEPT IN CASES OF GROSS NEGLIGENCE, A BUSINESS,
11 COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE AGENCY IS NOT
12 LIABLE IN A CIVIL ACTION FOR DAMAGES RESULTING FROM OR ARISING OUT
13 OF ANOTHER PERSON'S ACT INVOLVING A FIREARM OR AMMUNITION THAT IS
14 TRANSPORTED OR STORED AS DESCRIBED IN SUBSECTION (1).

15 (5) A PERSON WHO WAS OR WOULD BE DENIED THE ABILITY TO
16 TRANSPORT OR STORE A FIREARM OR AMMUNITION BY A VIOLATION OF
17 SUBSECTION (2) AND BUT FOR THAT VIOLATION WOULD BE OR WAS ENTITLED
18 LEGALLY TO DO SO MAY BRING AN ACTION TO ENJOIN ANY PERSON, BUSINESS
19 ENTITY, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE AGENCY
20 FROM VIOLATING SUBSECTION (2). A PREVAILING PLAINTIFF UNDER THIS
21 SUBSECTION SHALL BE AWARDED COSTS AND ATTORNEY FEES.

22 (6) A BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE
23 SERVICE AGENCY SHALL NOT DISCHARGE, OR OTHERWISE PENALIZE, AN
24 EMPLOYEE FOR TRANSPORTING OR STORING A FIREARM AS AUTHORIZED UNDER
25 SUBSECTION (1). AN EMPLOYEE WHO TRANSPORTS OR STORES A FIREARM OR
26 AMMUNITION AS AUTHORIZED UNDER SUBSECTION (1) AND IS DISCHARGED BY
27 A BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE

1 AGENCY FOR VIOLATING A POLICY OR RULE PROHIBITED UNDER SUBSECTION
2 (2) MAY DEMAND THAT THE BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER,
3 OR STATE SERVICE AGENCY TAKE ALL OF THE FOLLOWING ACTIONS:

4 (A) REINSTATE THE EMPLOYEE TO THE SAME POSITION THE EMPLOYEE
5 HELD AT THE TIME OF HIS OR HER TERMINATION FROM EMPLOYMENT, OR TO
6 AN EQUIVALENT POSITION.

7 (B) REINSTATE THE EMPLOYEE'S FULL FRINGE BENEFITS AND
8 SENIORITY RIGHTS, IF ANY.

9 (C) COMPENSATE THE EMPLOYEE FOR ANY LOST WAGES, BENEFITS, OR
10 OTHER LOST REMUNERATION, INCLUDING, BUT NOT LIMITED TO, UNPAID
11 LEAVE OR FURLOUGH, CAUSED BY THE TERMINATION.

12 (D) PAYMENT OF REASONABLE ATTORNEY FEES AND COSTS INCURRED BY
13 THE EMPLOYEE IN SEEKING REDRESS FOR A VIOLATION OF SUBSECTION (2).

14 (7) IF A DEMAND DESCRIBED IN SUBSECTION (6) IS DENIED OR THE
15 BUSINESS, COMMERCIAL ENTERPRISE, EMPLOYER, OR STATE SERVICE AGENCY
16 FAILS TO RESPOND TO THE DEMAND WITHIN 14 DAYS, THE EMPLOYEE MAY
17 BRING A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION FOR
18 WRONGFULLY DISCHARGING OR PENALIZING THE EMPLOYEE IN VIOLATION OF
19 SUBSECTION (6). A PREVAILING PLAINTIFF UNDER THIS SUBSECTION IS
20 ENTITLED TO ALL OF THE REMEDIES DESCRIBED UNDER SUBSECTION (6), AS
21 APPLICABLE.

22 (8) IT IS A COMPLETE DEFENSE TO AN ACTION UNDER THIS SECTION
23 THAT COMPLIANCE WITH THIS SECTION WOULD NECESSITATE THE VIOLATION
24 OF ANOTHER APPLICABLE FEDERAL OR STATE LAW OR REGULATION. HOWEVER,
25 THIS DEFENSE DOES NOT APPLY IF COMPLIANCE WITH THIS SECTION CAN BE
26 RECONCILED WITH THE OTHER LAW OR REGULATION.

27 (9) THIS SECTION DOES NOT APPLY IF THE MOTOR VEHICLE IS OWNED

1 OR LEASED BY THE EMPLOYER AND USED BY AN EMPLOYEE IN THE COURSE AND
2 SCOPE OF THE EMPLOYEE'S EMPLOYMENT, UNLESS THE EMPLOYEE IS REQUIRED
3 TO TRANSPORT OR STORE A FIREARM IN THE DISCHARGE OF THE EMPLOYEE'S
4 DUTIES.

5 (10) THIS SECTION DOES NOT AUTHORIZE A PERSON WHO HOLDS A
6 LICENSE TO CARRY A CONCEALED PISTOL UNDER SECTION 5B TO POSSESS THE
7 CONCEALED PISTOL IN A CONCEALED MANNER OTHER THAN AS PRESCRIBED
8 UNDER THIS ACT.

9 (11) AS USED IN THIS SECTION, "MOTOR VEHICLE" MEANS ANY
10 VEHICLE THAT IS REQUIRED TO BE REGISTERED WITH THE SECRETARY OF
11 STATE, INCLUDING, BUT NOT LIMITED TO, AN AUTOMOBILE, TRUCK,
12 MINIVAN, SPORTS UTILITY VEHICLE, OR MOTORCYCLE.